

Decision No. 37145

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of JOHN LA PINTA, seller, and ROBERT LANDIER, purchaser, for the sale and purchase of a passenger motor coach service operated by John La Pinta between San Pedro and La Rambla, County of Los Angeles, State of California, under a certificate of public convenience and necessity granted by the Railroad Commission of the State of California, by Decision No. 30520.

Application
No. 25993

BY THE COMMISSION:

O P I N I O N

In the above-entitled application John La Pinta proposes to sell and Robert Landier proposes to purchase an operative right for the transportation of passengers between San Pedro and the La Rambla district, and intermediate points, and six units of automotive equipment. The operative right involved was created by the Commission's Decision No. 30520, rendered January 10, 1938, in Application No. 21574.

By the terms of an agreement, dated January 4, 1944, entered into by the parties, attached to the application as Exhibit "B," the buyer agrees to pay the seller the sum of \$22,000 for the operative right and equipment. The buyer will pay \$11,000 in cash, assume the payment of \$2,000 due

Crown Body and Coach Corporation, and issue to the seller his promissory note in the sum of \$9,000 payable at the rate of \$400 or more per month, plus interest thereon at the rate of 2½% per annum.

The following is a list of the automotive equipment proposed to be transferred, together with the original cost to the seller and his estimate of its present value:

<u>Description</u>	<u>Original Cost</u>	<u>Estimated Present Value</u>
1 - 1927 model Moreland passenger stage, seating capacity 33 passengers	\$ 200.00	\$ 500.00
1 - 1933 model Ford passenger stage, seating capacity 21 passengers	1,500.00	500.00
1 - 1936 model Ford passenger stage, seating capacity 21 passengers	3,500.00	1,000.00
1 - 1940 model Ford passenger stage, seating capacity 29 passengers	5,200.00	4,000.00
1 - 1942 model Ford passenger stage, seating capacity 29 passengers	5,970.00	5,000.00
1 - 1943 model Ford passenger stage, seating capacity 33 passengers	<u>4,574.00</u>	<u>4,000.00</u>
	<u>\$20,944.00</u>	<u>\$15,000.00</u>

A member of the Commission's staff examined the equipment proposed to be transferred and reported that the present market value of this property is approximately \$15,350.

The operating statement of the seller shows the follow-

ing results for the preceding three calendar years:

	<u>1941</u>	<u>1942</u>	<u>1943</u>
Passenger Revenue	\$16,550.91	\$26,051.20	\$36,402.93
Total Expenses	<u>14,888.49</u>	<u>17,299.38</u>	<u>24,390.87</u>
Operating Income	<u>\$ 1,662.42</u>	<u>\$ 8,751.82</u>	<u>\$12,012.06</u>

The application states that the buyer for a number of years has been manager of the San Pedro Motor Bus Association and is familiar with the business of transporting passengers for hire. His financial statement, attached to the application, indicates that he has a net worth of approximately \$23,000, which is represented principally by real estate, bonds, insurance and cash in the bank. (1)

As required by the Public Utilities Act, \$50 in filing fees have been paid for filing the application on which the certificate involved was granted.

Section 52 of the Public Utilities Act contains the following provision:

"The commission shall have no power to authorize the capitalization of the right to be a corporation, or to authorize the capitalization of any franchise or permit whatsoever or the right to own, operate or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the State

(1)

FINANCIAL STATEMENT - ROBERT LANDIER
January 1, 1944

<u>ASSETS</u>		<u>LIABILITIES</u>	
Cash on hand and bank	\$ 1,794.80	Notes Payable to	
Accounts Rec. Current	6,201.55	California Bank	\$ 4,200.00
Accounts Rec. Deferred	4,884.89	Accounts Payable	5,651.52
Insurance Renewals	5,000.00	F.H.A. Loan	4,625.24
Cash Value-Life Ins.	750.00		
Bonds	500.00		
Real Estate	14,500.00		
Fixtures, equipment			<u>14,476.76</u>
and Autos	4,300.00	NET WORTH	23,454.48
	<u>\$37,931.24</u>		<u>\$37,931.24</u>

or to a political sub-division thereof as the consideration for the grant of such franchise, permit or right"

This section in our opinion does not authorize us to include in the value of the properties for capitalization purposes more than \$50 for the operative right. This represents the fee paid in Application No. 21574. Adding the \$50 to the \$15,350, found to be the value of the equipment, makes a total of \$15,400. The difference between the purchase price of \$22,000 and the \$15,400 should be charged to the Proprietor's Investment account.

The Commission is of the opinion that the authority sought should be granted as provided in the following Order. No public hearing is necessary.

Robert Landier is placed upon notice that "operative rights" as such do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State which is not in any respect limited to the number of rights which may be given.

O R D E R

An application having been made as above entitled and the Commission being fully informed and good cause

appearing,

IT IS ORDERED as follows:

1. That John La Pinta is hereby authorized to sell and transfer, and Robert Landier is hereby authorized to purchase and acquire, and hereafter to operate thereunder, the operative right created by the Commission's Decision No. 30520, in Application No. 21574, and the equipment described in Exhibit "C" attached to the application.

2. That if said Robert Landier acquires the operative right and property referred to in paragraph (1) of this Order, he may charge to Intangible Capital not more than fifty dollars of the purchase price of the operative right, the remainder of the payment for said operative right, to-wit: \$6,600, shall be charged to Proprietor's Investment account.

3. That applicants herein shall comply with the rules of the Commission's General Order No. 79 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective appropriate tariffs and time tables within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public.

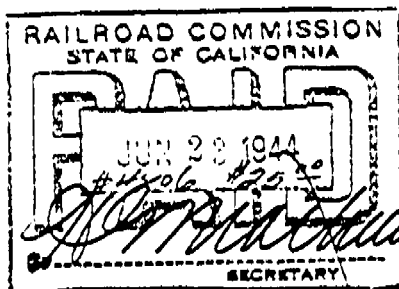
4. That Robert L. Landier may issue an unsecured, installment note to John La Pinta or Order for the sum of \$9,000, payable with interest at the rate of $2\frac{1}{2}$ per cent per annum, payable monthly; said principal to be payable at the rate of \$400 per month, or more. The Commission finds that the issue of such note is reasonably necessary by Robert L. Landier for the purpose of acquiring the operative right and motor equipment herein referred to.

5. That Robert L. Landier may assume payment of the \$2,000 indebtedness due the Crown Body and Coach Corporation to which reference is made in the conditional sale contract filed with the Commission on April 29, 1944.

6. That the authority herein granted will become effective when Robert L. Landier has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which minimum fee is Twenty-five (\$25.00) Dollars.

7. That within thirty (30) days after the transfer of the properties herein authorized, Robert L. Landier shall file with the Railroad Commission a copy of the bill of sale and a copy of the note issued under the authority herein granted.

Dated at San Francisco, California, this 20th
day of June, 1944.



Richard L. Kachise
Justin P. Cramer
Francis L. Havens
Francis L. Cleva
Earl J. Powell
Commissioners